IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 5926 of 2007(E)

PETITIONER:

P.A.VELLAKUTTY, CASUAL WORKER,
THE PHARMACEUTICAL CORPORATION (IM) KERALA LTD.,
THRISSUR.

BY ADV. SRI.S.EASWARAN.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
   THE SECRETARY TO GOVERNMENT, PERSONNEL &
   ADMINISTRATION REFORMS (ADVICE-C) DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE PHARMACEUTICAL CORPORATION (IM)**
   KERALA LTD., THRISSUR, REPRESENTED BY ITS
   MANAGING DIRECTOR.

BY ADV. SRI.U.K.RAMAKRISHNAN,
ADV. SRI. P.V. LOHITHAKSHAN,
GOVT. PLEADER SRI. BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.5926 of 2007-E

Dated this the 25th day of May, 2007

J U D G M E N T

The petitioner is a physically handicapped person. He has been appointed as a Trainee Worker by the second respondent on being sponsored by the Employment Exchange. The appointment was for a period of 179 days. It was from 1-8-1998. The petitioner claims regularisation in service, in the light of Ext.P8 Government Order dated 13-10-1999. Ext.P7 was the representation filed by him for regularisation. This writ petition was filed for a direction to the second respondent to consider and pass orders on Ext.P7.

2. The second respondent has filed a statement stating that Ext.P7 has been considered and an order has been passed, which is produced as Annexure-A along with the statement filed by him. The petitioner amended the writ petition incorporating the challenge against Annexure-A, which is marked as Ext.P9 in the writ petition. The relevant portion of Ext.P9 which spells out the reason for not regularising the petitioner reads as follows:

> " Your request for regularisation in service can be considered by the Corporation only after hearing the views of the Government on the proposal made by it on regularisation of service of 161 casual workers who commenced their service long before you."

3. The petitioner attacks the said reasoning as illegal and unreasonable. According to him, he falls under a special category and therefore the non-regularisation of 161 casual workers and delay from the part of the Government to give permission for the same cannot be taken as a ground for not regularising him in service. So, he seeks to quash Ext.P9 and also prays for consequential reliefs.

4. Unlike in government service, Ext.P8 does not mandate that physically handicapped persons employed in public sector undertakings should be regularised. As far as public sector undertakings are concerned those undertakings should decide whether physically handicapped persons should be regulrised or not, taking into account the interest of the organisation. If the second respondent feels that when 161 casual workers are waiting for regularisation since 1988, it is not just or proper now to regularise the petitioner overriding their claim, there is nothing wrong with it. It cannot be said to be

irrational or illegal. The second respondent, being an industrial undertaking, has to take decisions having regard to the interest of the establishment. Further, I find that in Ext.P9 the second respondent has decided to continue to engage the petitioner on casual basis and also to consider his case for regularissation in future. In other words, his claim for regularisation has not been rejected. I think the said decision taken by an industrial establishment cannot be said to be perverse or one which no man with senses will take. It can definitely be described as a decision taken in the interest of the organisation. Therefore, no ground has been made out in this writ petition warranting interference under Article 226 of the Constitution of India.

Accordingly, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

MS